

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DAVID YOUNG O'SHIELDS,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:13CV483
	)	
LEWIS SMITH,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before this court for review of the Memorandum Opinion, Order and Recommendation ("Recommendation") filed on October 7, 2013, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 8.) In the Recommendation, the Magistrate Judge recommends that Respondent's Motion to Dismiss (Doc. 4) be granted, that the Petition for Writ of Habeas Corpus (Doc. 1) be dismissed, and that Judgment be entered dismissing this action. Petitioner has filed a timely objection to the Recommendation. (Doc. 10.)

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations

made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

Petitioner specifically objected to the Magistrate Judge's proposed findings or recommendations. This court has reviewed the Recommendation as to these objections, and indeed in its entirety, and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

**IT IS THEREFORE ORDERED** that the Magistrate Judge's Recommendation (Doc. 8) is **ADOPTED**. **IT IS FURTHER ORDERED** that Respondent's Motion to Dismiss (Doc. 4) is **GRANTED**, that the Habeas Petition (Doc. 1) is **DENIED**, and that this action is **DISMISSED**. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 14th day of January, 2014.

  
\_\_\_\_\_  
United States District Judge